

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

MGM GRAND HOTEL, LLC

Employer

and

Case 28-RC-225344

**INTERNATIONAL UNION, UNITED AUTOMOBILE,
AEROSPACE & AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA, UAW**

Petitioner

**DECISION AND
DIRECTION OF SECOND ELECTION**

Pursuant to Section 102.69 of the Board's Rules and Regulations, I have considered the Hearing Officer's report recommending disposition of the Employer's objections to the election held on August 30, 2018. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 32 for and 23 against the Petitioner, with one challenged ballot, an insufficient number to affect the results.

In the absence of timely-filed exceptions,¹ having reviewed the record, I adopt the Hearing Officer's findings and recommendations, including the Hearing Officer's recommendation to overrule Objection Number 1, to sustain Objection Number 2, and to direct that the election be set aside and a new election held.

DIRECTION OF SECOND ELECTION

A. Election Details

The election will be held on Thursday, January 24, 2019, from 6:00 a.m. to 8:00 a.m., 12:00 p.m. to 2:00 p.m., and 6:00 p.m. to 8:00 p.m. at the Employer's facility located at 3799 Las Vegas Boulevard South, Las Vegas, Nevada, in Training Room 1.

¹ On January 7, 2019, outside the time for filing exceptions, the Employer filed a Motion to Dismiss, or, Alternatively, to Require a New Showing of Interest (the Motion), urging dismissal of the petition based on the same conduct alleged in the objections. By separate order, I denied the Motion as an attempt to file untimely exceptions and on its merits.

B. Voters in the Second Election

The National Labor Relations Board will conduct a second secret ballot election among the employees in the same unit as in the first election. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW**. The date, time and place of the election, will be specified in the Notice of Second Election that will issue shortly. That Notice shall also contain the following language:

NOTICE TO ALL VOTERS

The election conducted on August 30, 2018 was set aside because the National Labor Relations Board found that certain pro-union conduct by supervisors of the Employer interfered with the employees' exercise of a free and reasoned choice. Therefore, a new election will be held in accordance with the terms of this Notice of Second Election. All eligible voters should understand that the National Labor Relations Act, as amended, gives them the right to cast their ballots as they see fit and protects them in the exercise of this right, free from interference by any of the parties.

Eligible to vote in the second election are those employees in the unit who were employed during the payroll period ending immediately before the date of the Notice of Second Election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the date of the first election, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the date of the first election and who have been permanently replaced.

C. Voter List

Within 2 business days after issuance of this decision, the Employer must provide to the regional director and the parties in this matter a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email

addresses, and available home and personal cellular (“cell”) telephone numbers) of all eligible voters.

To be timely filed and served, the list must be received by the regional director and the parties named in this decision on or before **January 17, 2019**. The voter list must be alphabetized (overall or by department) and, unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a file that is compatible with Microsoft Excel (.xls or .xlsx). The first column of the list must begin with each employee’s last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015. When feasible, the list shall be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed.

The list may be submitted to the regional director by E-Filing through the Agency’s website www.nlr.gov. To E-File the voter list, go to the Agency’s website at www.nlr.gov, select **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

D. Notice Posting

The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted at least 3 full working days prior to 12:01 a.m. on the day of the election and must also distribute the Notice of Election electronically to any employees in the unit with whom it customarily communicates electronically. In this case, the notices must be posted and distributed **before 12:01 a.m. on January 18, 2019**. The Employer’s failure to timely post or distribute the election notices is grounds for setting aside the election if proper and timely objections are filed. However, a party is stopped from objecting to the nonposting or nondistribution of notices if it is responsible for the nonposting or nondistribution.

REQUEST FOR REVIEW

Pursuant to Section 102.69(c)(2) of the Board’s Rules and Regulations, any party may file with the Board in Washington, DC, a request for review of this decision. The request for review must conform to the requirements of Sections 102.67(e) and (i)(1) of the Board’s Rules and may be filed at any time following this decision until 14 days after a final disposition of the proceeding by the regional director. If no request for review is filed, the decision is final and shall have the same effect as issued by the Board.

A request for review may be E-Filed through the Agency’s website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents,

enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the Request for Review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated at Phoenix, Arizona, this 15th day of January 2019.

/s/ **Cornele A. Overstreet**
Cornele A. Overstreet, Regional Director